

From: [Yacovone, Krista](#)
To: [Otero, Camille V.](#)
Cc: [Hatfield, William S.](#); [Hauge, Paul M.](#)
Subject: RE: Your clients' production of its 104(e) documents to EPA
Date: Tuesday, March 7, 2017 6:35:00 PM

Camille,

I am sorry to hear that the parties were unable to reach an agreement. As you will recall, on June 30, 2016, EPA initially denied your request for responsive records which have been claimed confidential and may contain information exempt from disclosure under 5 U.S.C. § 552(b)(4) ("Exemption 4"). EPA has not yet issued a final confidentiality determination as to whether Exemption 4 applies in this case. Once EPA issues a final confidentiality determination, EPA will notify you whether the information qualifies for confidential treatment or may be released. Should EPA determine that the information qualifies for confidential treatment, your recourse would be to seek de novo review of EPA's determination in federal district court, which would involve the U.S. Department of Justice and U.S. Attorney's Office. See 5 U.S.C. § 552. As such, I emphasize that it would behoove your client to come to some agreement with G-I Holdings, Inc. or other potential custodians of the responsive records which have been claimed confidential.

EPA will let you know once it issues a final confidentiality determination, which will come from our Regional Counsel. Please let me know if any developments arise on your end.

Krista

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Krista E. Yacovone
Assistant Regional Counsel
Office of Regional Counsel
New Jersey Superfund Branch
U.S. Environmental Protection Agency, Region 2
290 Broadway, 17th Floor
New York, NY 10007-1866
(212) 637-3095

From: Otero, Camille V. [mailto:COtero@gibbonslaw.com]
Sent: Tuesday, March 07, 2017 11:54 AM
To: Yacovone, Krista <yacovone.krista@epa.gov>
Cc: Hatfield, William S. <WHatfield@gibbonslaw.com>; Hauge, Paul M. <PHauge@gibbonslaw.com>
Subject: RE: Your clients' production of its 104(e) documents to EPA
Importance: High

Hi Krista.

Unfortunately we were unable to come to an acceptable agreement with Quinn Emanuel on its production of the G-I 104(e) documents. Although this should have been a simple agreement by the

parties to exchange their respective 104(e) productions, Quinn Emanuel (in its usual fashion) sought to over-reach and place too many unnecessary and unreasonable conditions on its production of the documents.

We apologize if this causes additional work for the Agency but Quinn Emanuel has left us with no choice but to obtain the documents through the FOIA process. As such, we request that you provide us with the documents requested pursuant to our FOIA Request (EPA-R2-2016-007137) submitted on May 31, 2016.

Please advise when we may expect to receive these documents.

Thank you.

Camille

Camille V. Otero
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From: Yacovone, Krista [<mailto:yacovone.krista@epa.gov>]
Sent: Thursday, March 02, 2017 2:13 PM
To: Otero, Camille V.
Cc: Hatfield, William S.; Hauge, Paul M.
Subject: RE: Your clients' production of its 104(e) documents to EPA

Hi Camille,

The bates range of documents produced by G-I Holdings, Inc. in response to EPA's January 21, 2016 104(e) Request for Information is G-I_EPA0000001-G-I_EPA0021858. This represents G-I Holdings' entire production, which you received in response to FOIA EPA-R2-2016-007137, excluding G-I_EPA0000369-G-I_EPA0006751 and G-I_EPA0006779-G-I_EPA0007017, which are still subject to G-I Holdings' CBI claim. (G-I Holdings withdrew its CBI claim as to G-I_EPA0006752- G-I_EPA0006778, since that document is publically available and was produced at G-I_EPA00000213-G-I_EPA00000239.)

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From: Otero, Camille V. [<mailto:COtero@gibbonslaw.com>]
Sent: Wednesday, March 01, 2017 4:04 PM
To: Yacovone, Krista <yacovone.krista@epa.gov>
Cc: Hatfield, William S. <WHatfield@gibbonslaw.com>; Hauge, Paul M. <PHauge@gibbonslaw.com>
Subject: FW: Your clients' production of its 104(e) documents to EPA

Krista:

We are in the process of negotiating an agreement with the G-I entities regarding the referenced subject matter. Can you please confirm the bates range of documents produced by G-I in response to the January 21, 2016 104(e) request for information that EPA sent to G-I? To be clear, we are looking for the bates range of the entire production, not just those documents that G-I marked as "confidential" and have been withheld the Ashland/ISP parties.

If you have any questions, please do not hesitate to contact us.

Thank you.

Camille

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From: Otero, Camille V.
Sent: Thursday, February 23, 2017 10:15 AM
To: Sylvia Simson
Cc: Hatfield, William S.; Andrew J. Rossman; Jonathan Oblak; yacovone.krista@epa.gov
Subject: Re: Your clients' production of its 104(e) documents to EPA

Sylvia:

We understand what you told us but experience has taught us that what you say and ultimately do are two different things. We will not put our clients through a month or so of fruitless negotiations over a simple agreement and numerous meet and confers to try to obtain documents to which we are already entitled. That being said, if we can reach an agreement by cob tomorrow that includes an acceptable date certain for production of documents, then there will be no need to burden EPA with this matter. However, if we do not have an agreement by cob tomorrow we will advise the Agency and request that EPA respond to our FOIA request and provide us with the documents we requested.

To be clear, this matter could have been avoided had your clients agreed to cooperate with our clients as we requested in the first instance. Your failure and refusal to cooperate and provide us with the documents to which we are entitled is the sole reason that the Agency is now in the middle of this issue. Any further burden placed on EPA stems from these acts and is in no way the fault of the Ashland Parties.

I have copied Krista on this email so that there is no misunderstanding as to what has transpired with respect to this matter.

Thank you.

Camille

Sent from my iPhone

On Feb 22, 2017, at 8:09 PM, Sylvia Simson <sylviasimson@quinnemanuel.com> wrote:

Camille, as we have already told you that we are willing to come to an agreement, it is unclear to us why you continue to suggest that there is any need to unduly burden the EPA. We'll get you a draft agreement soon. Thanks.

Sylvia Simson

Quinn Emanuel Urquhart & Sullivan, LLP

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From: Otero, Camille V. [<mailto:COtero@gibbonslaw.com>]

Sent: Wednesday, February 22, 2017 6:24 PM

To: Sylvia Simson <sylviasimson@quinnemanuel.com>

Cc: Hatfield, William S. <WHatfield@gibbonslaw.com>; Andrew J. Rossman
<andrewrossman@quinnemanuel.com>; Jonathan Oblak
<jonoblak@quinnemanuel.com>

Subject: Re: Your clients' production of its 104(e) documents to EPA

Sylvia: thank you for the below response. We have been waiting for such a proposed agreement since we last spoke. Please provide us with a proposed agreement by cob tomorrow so we may review it with our client and provide comments if necessary. If we are unable to reach a resolution of this matter by cob on Friday, we will contact EPA and request that the Agency respond to our FOIA request and produce the documents

we requested.

Thank you,

Camille

Sent from my iPhone

On Feb 22, 2017, at 5:07 PM, Sylvia Simson <sylviasimson@quinnemanuel.com> wrote:

Camille, we already told you that we are willing to come to an agreement with you on this topic. As we previously discussed, our client is amenable to the production of such documents in the Delaware litigation, pursuant to the protective order issued by the Court in that case, provided that (1) the Ashland Parties similarly produce documents provided to the EPA in connection with any 104(e) request and (2) retract their demand for such materials from the EPA such that the EPA can close your pending FOIA request. We are also willing to come to an agreement regarding all parties' use of and reference to their respective productions in conversations with the EPA regarding the LCP Site, provided that none of these confidential documents are disclosed to or reproduced to any other third party without express consent given the confidentiality provisions contained therein. If we are in agreement as to the terms, we will draft a short agreement to this effect for our clients' execution and can then advise Krista she can close out her case. Our document production will follow in short order and we expect that the Ashland Parties' productions will as well. Thank you.

Sylvia Simson
Quinn Emanuel Urquhart & Sullivan, LLP

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From: Otero, Camille V. [<mailto:COtero@gibbonslaw.com>]

Sent: Tuesday, February 21, 2017 12:38 PM

To: Sylvia Simson <sylviasimson@quinnemanuel.com>

Cc: Hatfield, William S. <WHatfield@gibbonslaw.com>

Subject: Your clients' production of its 104(e) documents to EPA

Sylvia:

When can we expect production of these documents?

If we do not have agreement on production by Friday, February 24, 2017, we will call EPA and request the immediate production of these documents from the Agency.

Thank you.

Camille

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